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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,824	08/22/2001	Roger L. Jungerman	10010420-1	9648

7590 08/09/2004

AGILENT TECHNOLOGIES, INC.
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EXAMINER	
LEE, JOHN D	

ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/935,824	JUNGERMAN ET AL.	
	Examiner	Art Unit	
	John D. Lee	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-31* is/are allowed.

6)☒ Claim(s) *32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 August 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The five (5) sheets of formal drawing filed with the application on August 22, 2001, are acceptable.

The abstract of the disclosure is objected to because it is too long. The current Rules Of Practice limit the abstract to a maximum length of 150 words. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: on page 4, line 23, the Serial Number and filing date of the referenced co-pending application must be furnished. Appropriate correction is required. Applicant's cooperation is requested in correcting any other errors of which applicant may become aware in the specification.

Claims 12, 13, 16, 23, and 31 are objected to because of the following informalities: in claim 12, line 1, "polarization" is misspelled; in claim 12, line 12, "components" is misspelled; in claim 13, lines 1-2, it is inappropriate to characterize the structure of the first and second stages as comprising an "*operation*" (structural components are required); similarly, in lines 1-4 of claim 16, it is inappropriate to characterize the structure of the processing arrangement as comprising "first stage *conversion*" and "second stage *conversion*" (structural components are required); claim 23 ends with two periods, but only one is necessary; and it is believed that claim 31 is intended to depend upon claim 27 rather than upon claim 24 because claim 24 defines a method rather than an apparatus. Appropriate correction is required.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR § 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR § 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR § 3.73(b).

Claim 32 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 4 of U.S. Patent No. 6,744,508. Although the conflicting claims are not identical, they are not patentably distinct from each other because the polarization-independent sampling apparatus of claim 32 herein is the same apparatus as that of claims 1 and 4 of U.S. Patent No. 6,744,508, except that the Patent does not require the use of a frequency doubler to create the probe pulse beam from a fundamental source. The use of a frequency doubler to achieve a probe beam of a specific required frequency, however, is a very common technique in the optical nonlinear arts and would have been obvious in the apparatus of claims 1 and 4 of U.S. Patent No. 6,744,508. It is noted that the Patent teaches such technique, even though it is not claimed therein. There is thus no patentable distinction between claim 32 of the instant application and claims 1 and 4 of U.S. Patent No. 6,744,508.

Claims 1-31 are allowable over the prior art of record. The prior art does not disclose or suggest a method or apparatus for polarization-independent sampling of an optical input signal utilizing the "p" and "s" components of the optical input signal, wherein one component is phase shifted and converted relative to the other component.

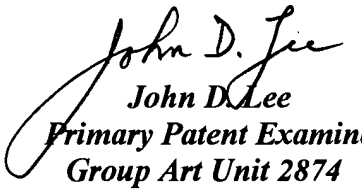
The prior art also does not disclose or suggest a method or apparatus for polarization-independent sampling of an optical input signal utilizing the "p" and "s" components of the optical input signal, wherein a dual stage arrangement is used for respectively combining the "p" and "s" components of the optical input signal with a probe pulse signal, and wherein sum frequency generation (SFG) operations are utilized in each stage. The prior art further does not disclose or suggest a method or apparatus for polarization-independent sampling of an optical input signal utilizing the "p" and "s" components of the optical input signal and a rotational, reflecting quarter waveplate/dichroic mirror/nonlinear conversion element arrangement as claimed herein.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,661,577 to Wu et al describes polarization splitting devices and methods based on optical nonlinear effects.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. §§ 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Any inquiry concerning the merits of this communication should be directed to Examiner John D. Lee at telephone number (571) 272-2351. The Examiner's normal

work schedule is Tuesday through Friday, 6:30 AM to 5:00 PM. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (571) 272-1562, to the technical support staff supervisor (Team 8) at telephone number (571) 272-1564, or to the Technology Center 2800 Customer Service Office at telephone number (571) 272-1626.



John D. Lee
Primary Patent Examiner
Group Art Unit 2874